

LINDKE, KEVIN
12/15/2020

Page 1



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEVIN LINDKE,

Plaintiff,

vs.

Case No. 2:20-CV-10872

Hon. Mark A. Goldsmith

JAMES FREED,

Magistrate Judge:

Defendant.

Hon. David R. Grand

The Deposition of KEVIN LINDKE,

Taken Via Zoom,

Commencing at 10:33 a.m.,

Tuesday, December 15, 2020,

Before Valerie Jo Lohr, CSR-6212.

LINDKE, KEVIN

12/15/2020

Pages 2–5

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| <p>1 APPEARANCES:</p> <p>2</p> <p>3 PHILIP L. ELLISON (Via Zoom)</p> <p>4 Outside Legal Counsel PLC</p> <p>5 PO Box 107</p> <p>6 Hemlock, Michigan 48626</p> <p>7 (989) 642-0055</p> <p>8 pellison@olcplc.com</p> <p>9 Appearing on behalf of the Plaintiff.</p> <p>10</p> <p>11 TODD J. SHOUDY (Via Zoom)</p> <p>12 Fletcher, Fealko, Shoudy & Francis, PC</p> <p>13 1411 Third Street</p> <p>14 Suite F</p> <p>15 Port Huron, Michigan 48060</p> <p>16 (810) 987-8444</p> <p>17 tshoudy@fletcherfealko.com</p> <p>18 Appearing on behalf of the Defendant.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p>Page 2</p> <p>1 Via Zoom,</p> <p>2 Tuesday, December 15, 2020</p> <p>3 10:33 a.m.</p> <p>4</p> <p>5 MARKED FOR IDENTIFICATION:</p> <p>6 DEPOSITION EXHIBIT 1</p> <p>7 MARKED FOR IDENTIFICATION:</p> <p>8 DEPOSITION EXHIBITS 3, 4 and</p> <p>9 10:33 a.m.</p> <p>10</p> <p>11 KEVIN LINDKE,</p> <p>12 was thereupon called as a witness herein, and</p> <p>13 after having first been duly sworn to testify</p> <p>14 to the truth, the whole truth and nothing but</p> <p>15 the truth, testified as follows:</p> <p>16 EXAMINATION</p> <p>17 BY MR. SHOUDY:</p> <p>18 Q. Let the record reflect that this is the deposition of</p> <p>19 Kevin Lindke taken pursuant to notice as to date, time</p> <p>20 and location and is to be used for all purposes</p> <p>21 permitted under the Federal Rules of Evidence and the</p> <p>22 Federal Rules of Civil Procedure.</p> <p>23 Mr. Lindke, good morning.</p> <p>24 A. Good morning.</p> <p>25 Q. Okay. Today is the date and time for your deposition</p> <p>Page 4</p> |
| <p>Page 3</p> <p>1 TABLE OF CONTENTS</p> <p>2</p> <p>3 WITNESS PAGE</p> <p>4 KEVIN LINDKE</p> <p>5</p> <p>6 EXAMINATION</p> <p>7 BY MR. SHOUDY: 4</p> <p>8 EXAMINATION</p> <p>9 BY MR. ELLISON: 56</p> <p>10 REEXAMINATION</p> <p>11 BY MR. SHOUDY: 66</p> <p>12</p> <p>13 EXHIBITS</p> <p>14</p> <p>15 EXHIBIT PAGE</p> <p>16 (Exhibits attached to transcript.)</p> <p>17</p> <p>18 DEPOSITION EXHIBIT 1 4</p> <p>19 DEPOSITION EXHIBIT 3 4</p> <p>20 DEPOSITION EXHIBIT 4 4</p> <p>21 DEPOSITION EXHIBIT 5 4</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p>Page 5</p> <p>1 in the case that you filed against James Freed, okay?</p> <p>2 A. Yep.</p> <p>3 Q. And I'm going to be asking you some questions about</p> <p>4 your lawsuit. I don't anticipate this deposition will</p> <p>5 go very long, maybe an hour or two. Last week I did</p> <p>6 one that was seven hours, but I don't think this will</p> <p>7 be anywhere close to that, okay?</p> <p>8 A. Yeah. Sure. Got it.</p> <p>9 Q. Okay. So before we begin, have you given a deposition</p> <p>10 before?</p> <p>11 A. Yes, I have.</p> <p>12 Q. Okay. And how many times have you given a deposition?</p> <p>13 A. Once or twice years and years ago. I was in a really</p> <p>14 bad car accident. I was just in the car. We had --</p> <p>15 there was a lawsuit involved with the drivers and stuff</p> <p>16 of that sort.</p> <p>17 Q. Okay. I'm just going to go over some of the brief</p> <p>18 ground rules of the deposition process. As you can see</p> <p>19 here, we're not sitting before a judge. There may be</p> <p>20 occasions where your lawyer may place objections on the</p> <p>21 record. The procedure that we utilize at a deposition</p> <p>22 is if he objects I may ask you to answer the question</p> <p>23 anyway if you can, unless he tells you not to answer</p> <p>24 the question. Okay?</p> <p>25 A. Yep.</p> |

LINDKE, KEVIN

12/15/2020

Pages 6-9

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| <p style="text-align: right;">Page 6</p> <p>1 Q. All right. And if I ask you a question and you don't</p> <p>2 understand the question, will you please let me know?</p> <p>3 A. I sure will.</p> <p>4 Q. Okay. That's important, because we'll assume you</p> <p>5 understood the question if you answer it, okay?</p> <p>6 A. Yep.</p> <p>7 Q. All right. It looks like you're in a car today,</p> <p>8 testifying while on a cell phone in a car, is that</p> <p>9 correct?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Okay. If you need to take a break for any reason, will</p> <p>12 you please let us know. Again, I don't think we're</p> <p>13 going to be going very long, but if you do need a</p> <p>14 break, let me know and we'll find a good place to</p> <p>15 break. Okay?</p> <p>16 A. Sounds good.</p> <p>17 Q. All right. Could you please state your full name for</p> <p>18 the record.</p> <p>19 A. Kevin James Lindke.</p> <p>20 Q. And what is your legal address, sir?</p> <p>21 A. I'd rather not give that out. You know about all the</p> <p>22 different stuff I got going on. I mean, do you want my</p> <p>23 PO Box? It's 44, St. Clair, Michigan 48079.</p> <p>24 Q. Do you have a legal address somewhere?</p> <p>25 A. Not at the moment.</p> | <p style="text-align: right;">Page 8</p> <p>1 A. Yes, I do.</p> <p>2 Q. All right. This is a document I marked as Exhibit 1.</p> <p>3 It should be in that folder I sent. But I'm just going</p> <p>4 to go through this briefly with you, Mr. Lindke.</p> <p>5 If you go to the second page, the title is</p> <p>6 re-notice of taking deposition duces tecum. And then</p> <p>7 down towards the middle part of the page there's a</p> <p>8 request that you bring certain documents. Now, in</p> <p>9 normal times you'd be at a deposition with a stack of</p> <p>10 documents in front of you and, you know, you would say,</p> <p>11 okay, here's all the documents I have. But have you</p> <p>12 brought any documents with you today?</p> <p>13 A. Actually, all the documents that are going to be</p> <p>14 available are in our pleadings and in our filings for</p> <p>15 the lawsuit. Every single -- well, let me finish this.</p> <p>16 Every single Facebook page that has been tied to this</p> <p>17 case has been deleted permanently by Facebook due to</p> <p>18 unknown individuals reporting the pages, and it's</p> <p>19 completely out of my control. So everything's gone.</p> <p>20 If you'd like to get them, you can subpoena Facebook</p> <p>21 for them. But I have no access to any accounts or</p> <p>22 anything that was tied to this lawsuit except for the</p> <p>23 primary Kevin Lindke account.</p> <p>24 Q. Okay. Yeah. I'll get to that in a second.</p> <p>25 So just going through, I highlighted some</p> |
| <p style="text-align: right;">Page 7</p> <p>1 Q. And just for purposes of this record, as I understand</p> <p>2 it there's --</p> <p>3 A. Actually -- actually, you know what, to make it easy,</p> <p>4 let's just use 1908 -- sorry. Man, I can't even think</p> <p>5 of my office address. It's the address that I used for</p> <p>6 all the mayor stuff. I mean, it's on all my --</p> <p>7 Q. You're talking about the room, the office that you rent</p> <p>8 in Port Huron?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. So just for purposes of this record, as I</p> <p>11 understand it, currently are there bench warrants out</p> <p>12 for your arrest?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Okay. And that pertains to some PPO matters?</p> <p>15 A. Different matters, yeah.</p> <p>16 Q. Okay. So right now would it be fair to characterize</p> <p>17 you as a fugitive from justice?</p> <p>18 A. Maybe, yeah. If that's -- yeah.</p> <p>19 Q. All right. Have you seen the deposition notice that</p> <p>20 was sent to your attorney in this case?</p> <p>21 A. Possibly.</p> <p>22 Q. All right. So let me just pull that up. So I'm going</p> <p>23 to hit share stream here. All right. You should have</p> <p>24 in front of you a caption of your federal court case</p> <p>25 against Mr. Freed. Do you see that in front of you?</p> | <p style="text-align: right;">Page 9</p> <p>1 parts of this. So I just want to go through these and</p> <p>2 just make sure I understand. Paragraph 2 says any and</p> <p>3 all copies of documents that Plaintiff has in any form</p> <p>4 of all of Plaintiff's posts or comments on Defendant's</p> <p>5 Facebook page that Plaintiff claims were deleted.</p> <p>6 So am I correct that you don't have any of</p> <p>7 those posts or comments that you made on Mr. Freed's</p> <p>8 page that were deleted?</p> <p>9 A. Yeah, not in front of me. Like I said, they're all</p> <p>10 attached to our -- to our pleading.</p> <p>11 Q. All right. Just so you know, and I'll -- it's a little</p> <p>12 more cumbersome here in a deposition where we're</p> <p>13 sharing a page by Zoom, but I do have Plaintiff's</p> <p>14 initial disclosures which has documents attached, and</p> <p>15 then I have Exhibit B, which is the -- a printout --</p> <p>16 and it's a printout from Mr. Freed's Facebook page. So</p> <p>17 do you have anything besides what was provided in the</p> <p>18 initial disclosure as well as attached to your</p> <p>19 complaint?</p> <p>20 A. No, I don't. That should be everything.</p> <p>21 Q. In the stuff that was provided, I didn't see a copy or</p> <p>22 type of record of any of the posts or comments that you</p> <p>23 made that you claim Mr. Freed deleted. Am I correct</p> <p>24 that we just don't have any of those?</p> <p>25 A. Yeah. I will have to -- I can go -- I can go back and</p> |

LINDKE, KEVIN

12/15/2020

Pages 10-13

| Page 10 | Page 12 |
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| <p>1 try to search them. I have them stored just in the</p> <p>2 accounts, and the accounts -- well, I'm not sure if you</p> <p>3 know how Facebook works, but they can just delete your</p> <p>4 account and it's deleted wholly. That's happened. I</p> <p>5 thought that we had everything we needed submitted with</p> <p>6 our pleadings. If not, I will do what I can to try to</p> <p>7 find them at a later time.</p> <p>8 Q. All right. Yeah. If you could do that right away, I</p> <p>9 would appreciate it, because we're kind of running out</p> <p>10 of time here with discovery. So the stuff I was given</p> <p>11 doesn't have any of your posts or comments that you say</p> <p>12 you made on his Facebook page that were deleted, so I</p> <p>13 don't have any record of those of exactly what you</p> <p>14 posted that was deleted. My question really is, do you</p> <p>15 have that somewhere?</p> <p>16 MR. ELLISON: I'm going to object to the form</p> <p>17 of the question in that you're asking him to create</p> <p>18 something that has been affirmatively deleted by your</p> <p>19 client. I mean, you asked for something that's been</p> <p>20 destroyed. It's just -- it can't be done.</p> <p>21 MR. SHOUDY: Mr. Ellison, I'm not asking him</p> <p>22 to create anything. I'm asking if he has any. It's a</p> <p>23 simple question.</p> <p>24 BY MR. SHOUDY:</p> <p>25 Q. Do you have anything? Some people make a post and keep</p> | <p>1 your phone?</p> <p>2 A. I may have made some -- I may have some screen shots.</p> <p>3 You know, those posts -- screen shots of what was</p> <p>4 posted on Mr. Freed's page I believe were posted to my</p> <p>5 group page that I run that you're aware of, the Through</p> <p>6 My Eyes page. There may be some stuff on there. And</p> <p>7 like I said, I can look for that too after we get done</p> <p>8 with this today.</p> <p>9 Q. Okay. Yeah. Those are kind of important. I need to</p> <p>10 get those, and I'm sure Mr. Ellison would like those as</p> <p>11 well.</p> <p>12 All right. And five was the same question</p> <p>13 about any documents or records that you've kept about</p> <p>14 posts made by third parties. And you say you might</p> <p>15 have screen shots of those as well?</p> <p>16 A. Yeah. Yes. The third party -- so you're referring to</p> <p>17 like some of the other witnesses and the posts that</p> <p>18 they made?</p> <p>19 Q. Yeah. So the posts that they made, I was asking you if</p> <p>20 you had any record of what they made?</p> <p>21 A. I may have those, too. That one I'm not too sure on,</p> <p>22 because they weren't my posts, and I wasn't actively</p> <p>23 with these people or actively seeing them when they</p> <p>24 made the posts. But I will -- I will check for those</p> <p>25 too to see if I ever received anything from them about</p> |
| Page 11 | Page 13 |
| <p>1 a record of that post. Do you have any record of any</p> <p>2 of those posts?</p> <p>3 A. I should have screen shots somewhere in one of my</p> <p>4 galleries. I will be able to find them either later</p> <p>5 today when we get done with the deposition and I can</p> <p>6 send them to you tomorrow. They should be saved</p> <p>7 somewhere I'm confident.</p> <p>8 Q. Okay. And then Paragraph 3 asks the same question as</p> <p>9 to posts that were made by third parties, so someone</p> <p>10 other than you posted on Mr. Freed's account that were</p> <p>11 then deleted by Mr. Freed. Do you have copies of</p> <p>12 screen shots of any of those posts?</p> <p>13 A. I would say --</p> <p>14 Q. Besides what your lawyer has already given to me, the</p> <p>15 initial disclosures and the ones that were attached to</p> <p>16 the complaint.</p> <p>17 A. Yeah. If they're not all in what was given to you, I</p> <p>18 should probably be able to find a copy of those. I</p> <p>19 would imagine I screen shot saved them in my gallery</p> <p>20 somewhere on my phone, on another phone.</p> <p>21 Q. Okay. And then, you know, if we don't have the actual</p> <p>22 posts, do you have anything, any type of record of what</p> <p>23 was said, like notes about what was posted, messages</p> <p>24 about what was posted, anything beyond, you know,</p> <p>25 copies of the actual posts that you say you have on</p> | <p>1 what they had posted or allegedly posted.</p> <p>2 Q. And then six was -- you know, I'm asking about the same</p> <p>3 questions, just a little different to try to cover all</p> <p>4 my bases. But in six I'm asking you for any records or</p> <p>5 copies of any of your posts that, you know, somebody</p> <p>6 may have given to you, some third party may have given</p> <p>7 to you, whether a sister or a friend or some other</p> <p>8 Facebook user.</p> <p>9 A. I'll look for those.</p> <p>10 Q. What I'm looking for -- I mean, six is -- I'm asking</p> <p>11 for posts -- any records about posts that you made that</p> <p>12 were deleted. And then seven is asking for any posts</p> <p>13 made by third parties that were deleted where the</p> <p>14 record was kept by somebody else where they provided</p> <p>15 you that information.</p> <p>16 A. Yeah. So basically you just want all the stuff that</p> <p>17 was posted to Mr. Freed's official city page, correct?</p> <p>18 Q. Yeah. What I'm looking for is anything that was made</p> <p>19 that you claim was deleted so I could see exactly what</p> <p>20 was there, okay?</p> <p>21 A. Yeah.</p> <p>22 Q. I think your lawyer and I both have been trying to, you</p> <p>23 know, get the actual documents that are at issue, okay?</p> <p>24 A. Yep.</p> <p>25 Q. All right. And then eight is asking for any</p> |

LINDKE, KEVIN

12/15/2020

Pages 14–17

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| <p style="text-align: right;">Page 14</p> <p>1 communications that you had with Mr. Freed. So I don't</p> <p>2 know if you've sent him any e-mails, any Facebook, what</p> <p>3 is that, Messenger, any letters.</p> <p>4 A. Yeah. I don't believe anything -- I don't believe</p> <p>5 anything of that sort exists. I can't recall right now</p> <p>6 ever directly or privately messaging him. I think that</p> <p>7 the majority of my communications with him were through</p> <p>8 just -- you know, publically on the page and just</p> <p>9 talking about the pandemic and the city's response and</p> <p>10 stuff of that sort.</p> <p>11 Q. All right. So can you give me your age for the record?</p> <p>12 A. I'm 40.</p> <p>13 Q. And just briefly your educational background.</p> <p>14 A. High school, some college.</p> <p>15 Q. And where did you go to college?</p> <p>16 A. Central Michigan and Western Michigan.</p> <p>17 Q. And how far did you get?</p> <p>18 A. Like first year. I was more of a worker than a</p> <p>19 scholar.</p> <p>20 Q. So your marital status?</p> <p>21 A. Single.</p> <p>22 Q. And you have just the one daughter?</p> <p>23 A. Yeah. Yeah. Yep.</p> <p>24 Q. Okay. So you only have one child?</p> <p>25 A. Yes, sir.</p> | <p style="text-align: right;">Page 16</p> <p>1 Q. When you say official city page, you're talking about</p> <p>2 the James R. Freed page that you reference in your</p> <p>3 lawsuit?</p> <p>4 A. Yes, sir. Yeah. The page in question.</p> <p>5 Q. All right. And then there's also something called a</p> <p>6 group on Facebook. Like, for example, you have that</p> <p>7 Through My Eyes. Is that called a group?</p> <p>8 A. Yeah. So basically what you can do, like, you can go</p> <p>9 in and create the Todd Shoudy page, and then you could</p> <p>10 make, you know, the Fletcher, Fealko, Shoudy page, and</p> <p>11 then you could also have a group page where it's not</p> <p>12 really -- it's your page, but people can post on it.</p> <p>13 It's like a group you can join.</p> <p>14 Q. So if I understand it, so if I have a group, to be able</p> <p>15 to post on the group page I would have to be a member?</p> <p>16 A. There's different ways. It depends on how you</p> <p>17 structure your page. Some pages are public, some are</p> <p>18 private. Public pages anybody can post on. Private</p> <p>19 page, yes, I believe you have to join the page to post</p> <p>20 on it.</p> <p>21 Q. Okay. So like your Through My Eyes, is that a private</p> <p>22 or a public page?</p> <p>23 A. That's a public page.</p> <p>24 Q. So anybody can post on that group?</p> <p>25 A. Anybody.</p> |
| <p style="text-align: right;">Page 15</p> <p>1 Q. Okay. And are you currently employed?</p> <p>2 A. Not at the moment.</p> <p>3 Q. In March of 2020 were you employed?</p> <p>4 A. No.</p> <p>5 Q. All right. So I am far from an expert on Facebook. I</p> <p>6 want to make sure we're all on the same page with the</p> <p>7 terminology. So as I understand it, like if I'm just a</p> <p>8 normal Facebook user, I have something created that's</p> <p>9 called a profile, is that correct terminology?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. So that would be like if you created a profile</p> <p>12 called Kevin Lindke, for example, that would be your</p> <p>13 profile?</p> <p>14 A. Correct.</p> <p>15 Q. That's like a normal everyday Facebook user page,</p> <p>16 correct?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Or account I should say. And then there's something</p> <p>19 also called a page, which is a little different than a</p> <p>20 profile, right?</p> <p>21 A. It can be. Some people use their pages as their</p> <p>22 profile page. Some people just have a profile. It all</p> <p>23 depends. Like Mr. Freed, you know, Mr. Freed I believe</p> <p>24 doesn't have a personal Facebook page. He just</p> <p>25 operates his official city page as his personal page.</p> | <p style="text-align: right;">Page 17</p> <p>1 Q. All right. And then on a page like the James R. Freed</p> <p>2 page at issue in this case, am I correct that you can't</p> <p>3 post on that page -- you can't post -- you know, make</p> <p>4 an original post, but you can comment on a post that</p> <p>5 Mr. Freed has made? Is that the way it works?</p> <p>6 A. No. I -- see, I don't know, because I think you can</p> <p>7 make it either way. I think you can make it where</p> <p>8 people can post -- make an original post if they want,</p> <p>9 or it can just be limited to comments. That's all on</p> <p>10 whoever created the page, how they structure it.</p> <p>11 Q. Do you know how the Freed page was structured? I'm</p> <p>12 just looking through that. I don't see any original</p> <p>13 posts by anybody else, but I see comments to his posts.</p> <p>14 A. Right. So Mr. Freed may have set that page up to be</p> <p>15 that only he can have -- only he can make original</p> <p>16 posts or any original posts made on that page would</p> <p>17 have to be approved by him before showing up on the</p> <p>18 page. So it's kind of like a firewall. But as far as</p> <p>19 comment, as far as I believe, any original posts or any</p> <p>20 posts on his page, anybody can comment on that post</p> <p>21 within the post itself in the thread.</p> <p>22 Q. Does Facebook allow you to set it up so you can keep --</p> <p>23 you know, prevent anybody from making a comment on one</p> <p>24 of your posts?</p> <p>25 A. I believe so, because that's what Mr. Freed did to me</p> |

LINDKE, KEVIN

12/15/2020

Pages 18–21

| Page 18 | Page 20 |
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| <p>1 and some other people. After I made some comments</p> <p>2 about his response to the pandemic locally, he then</p> <p>3 made it where I cannot comment on his page at all. It</p> <p>4 takes -- at the bottom of the page, usually it will say</p> <p>5 comment, share, or something else. Well, the comment</p> <p>6 got take -- the comment part got taken right out of my</p> <p>7 ability on Mr. Freed's public official page.</p> <p>8 Q. Do you know on like the page that he sets up, can he</p> <p>9 structure it so that nobody can comment?</p> <p>10 A. He may be able to. I'm not too sure. I think that</p> <p>11 would be a question you'd have to ask him. There's</p> <p>12 different -- you know, Facebook, there's a lot of</p> <p>13 different things you can, you know, edit and set your</p> <p>14 page up as. I'm not too sure how he had his exactly.</p> <p>15 I just know at one point I could comment on it, and</p> <p>16 once he didn't like my comments he deleted them, and</p> <p>17 then he took away my ability to comment on his page.</p> <p>18 Q. Now, if you have an account set up as a profile, so</p> <p>19 let's say your Kevin Lindke profile page -- well, is</p> <p>20 there a Kevin Lindke profile?</p> <p>21 A. Yes, sir.</p> <p>22 Q. All right. So that's like your normal user account.</p> <p>23 Can you do those same functions or features on a</p> <p>24 Facebook profile?</p> <p>25 A. On those -- on those pages you can completely hide it.</p> | <p>1 Q. So the only active profile one we have today is just</p> <p>2 Kevin Lindke?</p> <p>3 A. Yeah. And that one is actually in Facebook jail for</p> <p>4 two more days.</p> <p>5 Q. Okay. How do we get in Facebook jail here? How does</p> <p>6 that work?</p> <p>7 A. Okay. So Facebook has really cracked down on content</p> <p>8 and different things of that nature. So what happens</p> <p>9 is -- I mean, you're aware of how public my group page</p> <p>10 is and how public I am, you know, locally on social</p> <p>11 media. So I have some detractors and people that</p> <p>12 aren't very supportive of what I'm doing. So what they</p> <p>13 will do is if they search your posts and they find</p> <p>14 anything that could be even slightly taken as I guess</p> <p>15 you could say offensive or it violates the community</p> <p>16 standards that Facebook has in place, they can report</p> <p>17 you. As more reports come in, first you get a warning,</p> <p>18 then you get another warning, then you might get</p> <p>19 restricted for 12 hours, then 24 hours, then three</p> <p>20 days, then seven days, then 30 days. It all depends on</p> <p>21 where you are with how many violations you have</p> <p>22 basically in your kitty that you've racked up.</p> <p>23 Q. Do you have to have a violation to progress, or is it</p> <p>24 just the report itself that gets you in trouble?</p> <p>25 A. It can be just the report. Like, I could share a meme</p> |
| Page 19 | Page 21 |
| <p>1 Like you can just -- I can block you on Facebook and</p> <p>2 then you can't even see it anymore.</p> <p>3 Q. So as I see it, there's three different types, profile,</p> <p>4 a page, and a group. You have a group Through My Eyes,</p> <p>5 and then you said you have a profile Kevin Lindke. Do</p> <p>6 you have other profiles you use as well?</p> <p>7 A. No, that's it. Just the Kevin Lindke profile and my</p> <p>8 Through My Eyes group page.</p> <p>9 Q. Is there a profile page called Keith Wesley?</p> <p>10 A. There was previously. That one it's my understanding</p> <p>11 has also been booted off of Facebook.</p> <p>12 Q. When you say also, what's the other one that's been</p> <p>13 booted off Facebook?</p> <p>14 A. I had a Kevin James account. That one's also been</p> <p>15 removed.</p> <p>16 Q. Now, Keith Wesley, that's an account you use and is</p> <p>17 that your father's name, Keith Wesley?</p> <p>18 A. Actually, there's multiple Keith Wesley accounts.</p> <p>19 There was one that I'm sure you're aware of through --</p> <p>20 that I know you've probably done some background on</p> <p>21 some of the different cases that my sister, my mom and</p> <p>22 other admins of my group page, they operated that one.</p> <p>23 After that one got booted off, I created a second Keith</p> <p>24 Wesley page myself that I was using for a while, but</p> <p>25 that one was also removed from Facebook.</p> | <p>1 about the election that they deem to be not credible,</p> <p>2 and then they'll say that goes against the community</p> <p>3 standards and they can restrict your account for that.</p> <p>4 Q. What if I just have like a normal fairly benign post</p> <p>5 but somebody reports it to try to get me in Facebook</p> <p>6 jail, does that get you a violation as well? I mean,</p> <p>7 do you know if that gets you in any trouble?</p> <p>8 A. I'm not 100 -- it's very subjective I guess you could</p> <p>9 say with Facebook. There's really no rhyme or reason</p> <p>10 to what they say is okay and what they say isn't okay.</p> <p>11 It just -- it happens. I know that they can also</p> <p>12 auto-flag your account if you say -- like if I say,</p> <p>13 hey, I'm going to kick Todd Shoudy's ass, and Facebook</p> <p>14 can see that, they can flag that even when nobody</p> <p>15 reports it. If you solicit sex, if you try to sell</p> <p>16 drugs, incite violence, things of that nature, Facebook</p> <p>17 algorithm can just automatically pick that up and</p> <p>18 Facebook itself will restrict your account or hit you</p> <p>19 with a violation.</p> <p>20 Q. Okay. So that would be some type of program function</p> <p>21 that automatically does it?</p> <p>22 A. Yes, sir.</p> <p>23 Q. All right. So getting to this Kevin James profile,</p> <p>24 where is that in this Facebook jail process?</p> <p>25 A. That one has -- Kevin James has been completely removed</p> |

LINDKE, KEVIN

12/15/2020

Pages 22–25

| Page 22 | Page 24 |
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| <p>1 from Facebook because -- here's another thing with</p> <p>2 Facebook. If you don't use your real name -- or not</p> <p>3 your real name but your full name like as your address,</p> <p>4 people can report you for that. So James is my middle</p> <p>5 name, obviously, so I had a Kevin James account. But</p> <p>6 because it wasn't Kevin Lindke, Facebook itself after</p> <p>7 it got reported or however it happened, they completely</p> <p>8 removed that account.</p> <p>9 Q. When was that removal, just recently?</p> <p>10 A. No. I think I lost that one -- well, yeah, fairly</p> <p>11 recently. Within the last few weeks that one was taken</p> <p>12 down.</p> <p>13 Q. So going back to our case here, the case against Freed.</p> <p>14 A. Yes, sir.</p> <p>15 Q. Do you recall what month you made your first post on</p> <p>16 James Freed's page?</p> <p>17 A. I know I made some posts about the pandemic stuff. I</p> <p>18 don't think prior to March I had posted anything about</p> <p>19 anything to do with his running of the city or, you</p> <p>20 know, his -- you know, anything he had to do with the</p> <p>21 city. I believe most of my stuff or all of my stuff</p> <p>22 began after the pandemic started in March to the best</p> <p>23 of my, you know, recollection.</p> <p>24 Q. So March 2020 would be the first post?</p> <p>25 A. I believe so.</p> | <p>1 A. I don't -- I don't believe so.</p> <p>2 Q. And Kevin Lindke is still active, correct?</p> <p>3 A. Yes, it is. But like I said, it's currently in</p> <p>4 Facebook jail for two more days.</p> <p>5 Q. Okay. So going through the progression that's</p> <p>6 suspended for what, like a couple days?</p> <p>7 A. Yeah. Yes, sir.</p> <p>8 Q. Okay. So then if it gets to the next level of</p> <p>9 suspension and it keeps progressing, I think you</p> <p>10 referenced several different progressions leading to</p> <p>11 being completely banned?</p> <p>12 A. Yeah, it can. They give you warnings and stuff.</p> <p>13 You've got to get really egregious to get completely</p> <p>14 kicked off. They won't usually do it for simple stuff.</p> <p>15 It's just for like, you know, some of the guys that</p> <p>16 really, you know, go a little crazy on there and don't</p> <p>17 realize that they're, you know, commenting to, you</p> <p>18 know, the world.</p> <p>19 Q. Okay. And then Keith Wesley, did you use Keith Wesley</p> <p>20 to post in March or April on Mr. Freed's Facebook page?</p> <p>21 A. I may have. Because the way it worked is I believe --</p> <p>22 and I -- I don't want to be wrong about this, but I</p> <p>23 believe I was either using the Kevin James or Kevin</p> <p>24 Lindke account. Mr. Freed was deleting those comments</p> <p>25 and blocking those profiles, and that's when I used the</p> |
| Page 23 | Page 25 |
| <p>1 Q. Using any profile that you had?</p> <p>2 A. I believe so.</p> <p>3 Q. And then when were you -- I also know there's a</p> <p>4 reference to blocked. When were you blocked?</p> <p>5 A. I would -- like, by Mr. Freed?</p> <p>6 Q. Yes.</p> <p>7 A. I would believe that would have to be the end of March,</p> <p>8 sometime in April. I'm not -- I'm not 100 percent</p> <p>9 sure. I know he didn't let me go very long. I think I</p> <p>10 made a total of maybe four to six comments about</p> <p>11 various things, various posts that Mr. Freed had made</p> <p>12 and various posts that Mayor Repp had made and just</p> <p>13 their response to the pandemic. I commented on it.</p> <p>14 And, yeah, it didn't take very many before he deleted</p> <p>15 those comments and blocked me and took away my ability</p> <p>16 to comment on his page.</p> <p>17 Q. Were you making comments at that time using the Kevin</p> <p>18 Lindke profile?</p> <p>19 A. I believe I was using Kevin Lindke or Kevin James. I'm</p> <p>20 not 100 percent sure. Once I pull those screen shots</p> <p>21 out after we get done with this, you'll be able to see</p> <p>22 very clearly what profile I was using and what was</p> <p>23 said.</p> <p>24 Q. Okay. So Kevin James was not in Facebook jail back in</p> <p>25 the March/April 2020 timeframe?</p> | <p>1 Keith Wesley account to make some comment about the</p> <p>2 pandemic. And Mr. Freed then deleted those comments</p> <p>3 and blocked that account from being able to post on the</p> <p>4 page.</p> <p>5 Q. So how many accounts are you blocked from, all three</p> <p>6 that we just talked about?</p> <p>7 A. I believe so.</p> <p>8 Q. Okay. Let me share one. What I've marked as Exhibit</p> <p>9 5, I'm going to see if I can share that one. All</p> <p>10 right. Do you see Exhibit 5 here? It looks like some</p> <p>11 type of --</p> <p>12 A. Yeah. That was actually posted on --</p> <p>13 Q. It's a screen shot, I guess. And then it references it</p> <p>14 looks like on March 24th it says -- it has Kevin</p> <p>15 Lindke. It says he deleted comments after responding</p> <p>16 and blocked my third account.</p> <p>17 A. Yes, sir.</p> <p>18 Q. Okay. So the third account would be -- so at this</p> <p>19 point in time we're talking about Keith Wesley, Kevin</p> <p>20 Lindke, and Kevin James as the three accounts that were</p> <p>21 blocked?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Okay. So since this is dated March 24, that would mean</p> <p>24 that all of your posts were made in March. So we never</p> <p>25 got to April, right?</p> |

LINDKE, KEVIN

12/15/2020

Pages 26-29

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| <p style="text-align: right;">Page 26</p> <p>1 A. Yeah. It doesn't appear so.</p> <p>2 Q. Okay. Do you have any other profiles besides those</p> <p>3 three?</p> <p>4 A. No, sir.</p> <p>5 Q. So in March of 2020, did you have any other profiles</p> <p>6 besides those three?</p> <p>7 A. No, sir.</p> <p>8 Q. All right. And you don't have any public pages that</p> <p>9 you created or used?</p> <p>10 A. Just the Through My Eyes page. And that page -- that</p> <p>11 group page, you can't actually post on that page. It's</p> <p>12 basically just a chalkboard, if that, you know, helps</p> <p>13 you understand better, the Through My Eyes page. It's</p> <p>14 basically like a message board or a chalkboard. That</p> <p>15 page can't comment on stuff.</p> <p>16 Q. Okay. Yeah. And so do you have other group pages as</p> <p>17 well that you control or have control?</p> <p>18 A. I have the attorney -- yeah. I have the Attorney</p> <p>19 Review Board of St. Clair County.</p> <p>20 Q. Okay.</p> <p>21 A. And that's the same as the Through My Eyes page. You</p> <p>22 can't comment from that page. You can't -- you can't</p> <p>23 navigate around as that page.</p> <p>24 Q. All right. And then you have one, Justice For, and</p> <p>25 then I'm not going to mention your daughter, but</p> | <p style="text-align: right;">Page 28</p> <p>1 transcript before we filed it. And what invariably</p> <p>2 happens is something gets filed where somebody forgets</p> <p>3 to do that. So it's just --</p> <p>4 A. Actually, I was just reading a federal case actually</p> <p>5 that you're involved with, Mr. Shoudy, a previous case</p> <p>6 where that happened, the name got put in there and</p> <p>7 there were motions filed with the federal judge, you</p> <p>8 know, to redact that. So, yeah, I'm very well aware of</p> <p>9 all the procedures.</p> <p>10 Q. Yeah. We missed that part in our file and we had to</p> <p>11 have that stricken and refiled it with the redactions</p> <p>12 that were correctly done. So I apologize for that.</p> <p>13 That wasn't intentional.</p> <p>14 A. Well, no, it wasn't even my case. It was a previous</p> <p>15 case that you handled. You'll know about it soon</p> <p>16 enough.</p> <p>17 Q. Oh, okay. All right. Have you had anybody or asked</p> <p>18 anybody else to post on Mr. Freed's page?</p> <p>19 A. Not that I believe so. I may have made some comments</p> <p>20 on my group page for people to go tell Mr. Freed what</p> <p>21 they think about his response or what their position</p> <p>22 would be.</p> <p>23 Q. All right. Do you have any of those posts or screen</p> <p>24 shots or posts that you made on -- I assume you're</p> <p>25 talking about Through My Eyes?</p> |
| <p style="text-align: right;">Page 27</p> <p>1 Justice For, and then it has your daughter's name. Is</p> <p>2 that correct?</p> <p>3 A. Yeah. That is actually the Through My Eyes page. I</p> <p>4 changed the name from the Justice Page to Through My</p> <p>5 Eyes.</p> <p>6 Q. Okay. So have you --</p> <p>7 MR. ELLISON: Todd, I hate to interrupt.</p> <p>8 Kevin, just so you know, the reason why he's not</p> <p>9 mentioning your daughter's name is because we have a</p> <p>10 federal rule that --</p> <p>11 THE WITNESS: The defense suit.</p> <p>12 MR. ELLISON: Yeah. Right. So he's not</p> <p>13 being disrespectful or anything.</p> <p>14 THE WITNESS: No. No. I know exactly why he</p> <p>15 did it. I'm aware, because they use initials. They</p> <p>16 don't want the kid's name in all the fed -- in all the</p> <p>17 paperwork. I'm fully aware of that.</p> <p>18 MR. ELLISON: Okay. Very good.</p> <p>19 THE WITNESS: I appreciate that, Mr. Shoudy.</p> <p>20 BY MR. SHOUDY:</p> <p>21 Q. Yeah. I don't think there's any reason we have to</p> <p>22 mention your daughter's name. You've only got one</p> <p>23 daughter, so I say daughter. And then, you know, if we</p> <p>24 did mention the name, then somebody would have to sit</p> <p>25 around with a black marker and block it out of the</p> | <p style="text-align: right;">Page 29</p> <p>1 A. Yes, sir. Yeah. Like I said, I don't know if I did.</p> <p>2 It's very possible that I did. And I will look for</p> <p>3 those to see if I did. And I would imagine when you do</p> <p>4 the depositions with the other witnesses they will</p> <p>5 inform you if I did direct them or suggested on my</p> <p>6 group page that they should comment on Mr. Freed's</p> <p>7 page.</p> <p>8 Q. Okay. Did you share those with us? Let's go through</p> <p>9 that as well, pull up any posts that you have maybe</p> <p>10 sent as a screen shot if they still exist and if they</p> <p>11 don't exist send us what you saved.</p> <p>12 A. Yes, sir.</p> <p>13 Q. All right. Now, what I want to do is go through your</p> <p>14 initial disclosures for a moment, which is Exhibit 4.</p> <p>15 So I'm going to pull that up. All right. Is that on</p> <p>16 your screen now?</p> <p>17 A. Yes, sir.</p> <p>18 Q. All right. What I'm going to do is scroll down to some</p> <p>19 of these individuals that are listed. Rosemary Dale</p> <p>20 Foust, do you know who that is?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And who is that?</p> <p>23 A. These are just people that are part of my group page</p> <p>24 that I'm friends with through Facebook. I've never --</p> <p>25 besides Christine Woodley, I have never met any of</p> |

LINDKE, KEVIN

12/15/2020

Pages 30-33

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|---|---|
| <p style="text-align: right;">Page 30</p> <p>1 those other people personally or in person.</p> <p>2 Q. So setting aside Christine Woodley for a moment,</p> <p>3 Rosemary Foust, Robert Pecar, Janet Marie St. John,</p> <p>4 April Lee and Marjorie Dewitt, none of them are friends</p> <p>5 of yours or related to you in any way?</p> <p>6 A. Just Facebook, that's it. And I have only known them</p> <p>7 since I started my group page in November of 2018.</p> <p>8 Prior to that, I did not know who any of these people</p> <p>9 were. And like I said, I've never -- besides Mrs.</p> <p>10 Woodley, I have never met any of those other people in</p> <p>11 person.</p> <p>12 Q. All right. Well, tell me about Miss Woodley. Who is</p> <p>13 that?</p> <p>14 A. She is just a supporter on my page. She's attended one</p> <p>15 or two of the protests that I have put together and</p> <p>16 spearheaded. And that's basically, you know, the gist</p> <p>17 of our relationship is just she follows me on Facebook,</p> <p>18 she's a part of my group page, and I've met her briefly</p> <p>19 at a couple of different protests.</p> <p>20 Q. So would the same be true for her, you didn't know her</p> <p>21 before the time you created your Facebook page in 2003</p> <p>22 or your group page in 2018?</p> <p>23 A. Yes, sir. Correct.</p> <p>24 Q. All right. And none of these individuals are related</p> <p>25 to you?</p> | <p style="text-align: right;">Page 32</p> <p>1 better able to, you know, kind of fill in that</p> <p>2 information for you when they are deposed.</p> <p>3 Q. All right. So all the knowledge you have from them</p> <p>4 came from their posts on your group page, or was there</p> <p>5 some private messages that led to the names of those</p> <p>6 individuals?</p> <p>7 A. They may have private messaged me what happened. But</p> <p>8 I'm almost positive to the best of my recollection</p> <p>9 that, you know, they were pretty vocal about Mr. Freed</p> <p>10 deleting and blocking them from his page when they were</p> <p>11 posting in the group page Through My Eyes.</p> <p>12 Q. Can you also share with your lawyer and me all of the</p> <p>13 Facebook posts that they made regarding Mr. Freed's</p> <p>14 account about, you know, these deleted comments and</p> <p>15 then any private messages that you may have exchanged</p> <p>16 with them?</p> <p>17 A. Yeah. I will search for those too and see if there is</p> <p>18 anything. I don't know if there are any private</p> <p>19 messages like that. I just -- I can't remember. You</p> <p>20 know, I get, you know, hundreds of messages every day</p> <p>21 from people, and it's hard to keep everything straight</p> <p>22 and cataloged, I guess, mentally.</p> <p>23 Q. So going back to you said earlier that there were four</p> <p>24 to six posts that you made on Mr. Freed's Facebook</p> <p>25 page, is it four to six total between the three</p> |
| <p style="text-align: right;">Page 31</p> <p>1 A. No, sir.</p> <p>2 Q. And are all six of these individuals like regular</p> <p>3 contributors or commenters on your Through My Eyes</p> <p>4 group page?</p> <p>5 A. Yeah. I mean, they're active on there. You know,</p> <p>6 there was a lot of people -- I got, you know, almost</p> <p>7 9,000 members in that group, and a good majority of</p> <p>8 them are quite active on the page. I don't think</p> <p>9 anyone more so than anyone else. Everyone just kind</p> <p>10 of, you know, follows along and chimes in and, you</p> <p>11 know, shows their support by being in the group.</p> <p>12 Q. Now, obviously something led you to these six</p> <p>13 individuals. Did they post on your group page or send</p> <p>14 you a private message referencing the James Freed page?</p> <p>15 A. Yeah. After I started -- well, they were already a</p> <p>16 part of the group. And then when I would post stuff</p> <p>17 about Mr. Freed deleting my comments, you know, like</p> <p>18 the screen shot that you just showed me, you know, then</p> <p>19 they would come and they would comment like, hey, he</p> <p>20 deleted my comments too or, you know, I had an issue</p> <p>21 with him. I know some of these people it is my</p> <p>22 understanding that they may have previously before I</p> <p>23 ever started posting on Mr. Freed's page had previously</p> <p>24 posted stuff on his page that was deleted and they were</p> <p>25 blocked and stuff of that nature. I think they'll be</p> | <p style="text-align: right;">Page 33</p> <p>1 accounts?</p> <p>2 A. Yeah. I believe so.</p> <p>3 Q. Do you remember any of the posts that you made?</p> <p>4 A. Yeah. I know there was a post -- Mr. Freed and Mayor</p> <p>5 Repp had posted a screen shot from eating lunch at</p> <p>6 Kate's downtown, which as you know is a restaurant</p> <p>7 downtown.</p> <p>8 Q. Yes.</p> <p>9 A. They made a post about eating out there, and I think I</p> <p>10 responded to their comments about, you know, the city</p> <p>11 is suffering, residents are suffering and, you know,</p> <p>12 you guys as city leaders instead of out talking to the</p> <p>13 community and being that face of the community in this,</p> <p>14 you know, unprecedented time of this pandemic, you're</p> <p>15 eating lunch at Kate's which is, you know, a very nice</p> <p>16 restaurant, a little pricy for a lot of Port Huron</p> <p>17 folks. And I just thought it was in bad taste that</p> <p>18 they posted that, and I very civilly voiced my opinion</p> <p>19 on that.</p> <p>20 Q. Okay. And that post, do you think you have a screen</p> <p>21 shot of that post?</p> <p>22 A. I believe so. Yeah. I should be able to find that.</p> <p>23 Q. All right. Yeah. I think the picture you're talking</p> <p>24 about, Mr. Freed had posted a picture of Mayor Repp</p> <p>25 buying food at Kate's?</p> |

LINDKE, KEVIN

12/15/2020

Pages 34-37

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| <p style="text-align: right;">Page 34</p> <p>1 A. Yes, sir.</p> <p>2 Q. Okay. Let me see. I think that might be part of your</p> <p>3 disclosures.</p> <p>4 MR. ELLISON: I think you're looking at page</p> <p>5 15 of my pdf.</p> <p>6 MR. SHOUDY: Oh, okay.</p> <p>7 THE WITNESS: Yeah. Mayor Repp has like her</p> <p>8 purse in her hand and she's at the counter. And I</p> <p>9 believe Mr. Freed took the picture.</p> <p>10 BY MR. SHOUDY:</p> <p>11 Q. Okay. This one dated March 19th. Are you seeing this</p> <p>12 one here? It's page 37 of Exhibit 4.</p> <p>13 A. Yes, sir. That's the one.</p> <p>14 Q. Okay. So it says there's 30 comments. So you're</p> <p>15 saying you were one of the comments?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Okay. Gotcha.</p> <p>18 A. And even if Mr. Freed deleted my comments -- so</p> <p>19 Facebook -- it would still say 30 comments. But when</p> <p>20 you go read, there would only be 29 comments.</p> <p>21 Facebook's algorithm doesn't remove the comment count</p> <p>22 when it removes the comment. Does that make sense?</p> <p>23 Q. Yes, it does. I didn't know that. But thank you for</p> <p>24 sharing that.</p> <p>25 All right. So I've got that down as one.</p> | <p style="text-align: right;">Page 36</p> <p>1 one on the mayor's purchase of food at Kate's, and then</p> <p>2 the second one was you referencing a comment critical</p> <p>3 of his response to the pandemic. Any other posts that</p> <p>4 you recall making that were deleted?</p> <p>5 A. Not that I can recall verbatim what they said. I know</p> <p>6 there were -- I know there's going to be at least three</p> <p>7 comments made, because each profile was blocked and</p> <p>8 comments were deleted. So I know there's at least</p> <p>9 three. I just gave you two of them. I'm not sure</p> <p>10 offhand what the third one could be, but I think</p> <p>11 there -- there was one point where me and Mr. Freed</p> <p>12 were going back and forth, but then I think he realized</p> <p>13 that it was me or he thought it was somebody else and</p> <p>14 he started deleting those comments. But at one point</p> <p>15 we were actually conversating back and forth in the</p> <p>16 comment thread.</p> <p>17 Q. And so you think there was one comment thread where he</p> <p>18 didn't realize it was you initially and then eventually</p> <p>19 figured it was you and deleted you? Is that what</p> <p>20 you're saying?</p> <p>21 A. Yeah. Or he thought it was somebody else and he just</p> <p>22 didn't like, you know, what was being said. But there</p> <p>23 was definitely an exchange, and he engaged -- he</p> <p>24 actively engaged in the conversation with the profile.</p> <p>25 Q. All right. Any others that you recall that you made</p> |
| <p style="text-align: right;">Page 35</p> <p>1 You said there's four to six. So just give me your</p> <p>2 best memory as to what the other comments were.</p> <p>3 A. I think from the Keith Wesley account after my other</p> <p>4 two accounts were taken down, Mr. Freed made a comment</p> <p>5 about his response to the pandemic or something that he</p> <p>6 felt they did that was beneficial to the city, and my</p> <p>7 comment was something about your response to this</p> <p>8 pandemic has been abysmal, the city deserves better,</p> <p>9 something of that nature.</p> <p>10 Q. Okay. What other comments do you recall making?</p> <p>11 A. I don't recall offhand. I don't want to speak. I</p> <p>12 don't want to be wrong. But basically it was just</p> <p>13 responses to stuff that Mr. Freed was posting that I</p> <p>14 didn't feel he was being quite as honest and as upfront</p> <p>15 as he should have been. And like I said, just as a</p> <p>16 citizen of the city and, you know, a constituent, you</p> <p>17 know, I just voiced my concerns on Mr. Freed's, you</p> <p>18 know, public official city page that he was using to,</p> <p>19 you know, discuss city business and steps that the city</p> <p>20 was taking in response to the pandemic. You know,</p> <p>21 basically it was kind of like being in his office or,</p> <p>22 you know, being at a city meeting with him and just</p> <p>23 responding to, you know, his comments and his position</p> <p>24 on some things.</p> <p>25 Q. Okay. So the only comments you recall are the two, the</p> | <p style="text-align: right;">Page 37</p> <p>1 that were deleted?</p> <p>2 A. Not that I can recall offhand. I don't want to say the</p> <p>3 wrong thing or, you know, not -- I don't want to, you</p> <p>4 know, misconstrue what was said or anything like that</p> <p>5 until I can get those posts. And then I can, you know,</p> <p>6 confirm them and make sure they're accurate.</p> <p>7 Q. So I think you probably still have in front of you page</p> <p>8 37 of Exhibit 4. Right under that there's a little</p> <p>9 thumbs up symbol.</p> <p>10 A. Yes, sir.</p> <p>11 Q. That means somebody liked that account or liked that</p> <p>12 post?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And then it counts how many have liked or -- I guess</p> <p>15 there's a like and then there's a heart. I don't know</p> <p>16 what the difference is, but.</p> <p>17 A. Okay. So when you like a Facebook post -- this is</p> <p>18 something Facebook started. I'm not sure when they</p> <p>19 started it exactly. But you can like something, love</p> <p>20 something, you can give a wow react, like a wow face,</p> <p>21 you can do an angry react, and I think you can do like</p> <p>22 a crying sad react. It all depends on -- it's all the</p> <p>23 same thing. It's just you convey that you're feeling a</p> <p>24 different emotion to that post.</p> <p>25 Q. Okay. Do you have any likes or emotions that you gave</p> |

LINDKE, KEVIN

12/15/2020

Pages 38-41

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| <p style="text-align: right;">Page 38</p> <p>1 to any of his posts?</p> <p>2 A. I don't believe so. If I did, they were most likely</p> <p>3 going to either be the wow react or the angry face.</p> <p>4 Q. Are there other group pages or profile pages or just</p> <p>5 public pages that you have posted on that are critical</p> <p>6 of Mr. Freed? Let's start with Mr. Freed's response to</p> <p>7 the pandemic.</p> <p>8 A. Yeah. Again, on my group page --</p> <p>9 THE WITNESS: Well, actually, Phil, is this</p> <p>10 -- is this within the scope? Does this matter,</p> <p>11 anything I posted on my pages?</p> <p>12 MR. ELLISON: You can answer those questions.</p> <p>13 THE WITNESS: Okay. Does it matter?</p> <p>14 MR. ELLISON: No. No.</p> <p>15 THE WITNESS: I thought the scope of this was</p> <p>16 just simply what I posted to Mr. Freed's page. And I</p> <p>17 believe that the discovery and the order from the judge</p> <p>18 was that we were going to simply talk about posts that</p> <p>19 I made on Mr. Freed's official city page, not any other</p> <p>20 pages.</p> <p>21 MR. ELLISON: The judge -- I'm going to</p> <p>22 direct you to answer for right now and give some</p> <p>23 leeway. If he goes too far, then we'll readdress that.</p> <p>24 The judge wanted to have specific instances to address</p> <p>25 those issues. He did issue, you are correct, a</p> | <p style="text-align: right;">Page 40</p> <p>1 was criticizing her, and I may have -- Mr. Freed's name</p> <p>2 may have been in there. But an interesting thing is</p> <p>3 Mayor Repp didn't delete any of my comments. Mayor</p> <p>4 Repp didn't restrict me from commenting on her page.</p> <p>5 She simply let my comment stand. She never responded</p> <p>6 to them, but she let them stay.</p> <p>7 Q. Does Mayor Repp have a profile or a public page?</p> <p>8 A. She's got the same setup page as Mr. Freed.</p> <p>9 Q. Okay. And so those comments should still be on that</p> <p>10 Facebook page?</p> <p>11 A. I believe so. As far as -- well, not if they're</p> <p>12 from -- I don't remember if they came from the Kevin</p> <p>13 James account or the Keith Wesley account. But any</p> <p>14 Kevin Lindke account that commented on Mayor Repp's</p> <p>15 page should still be there. I think she understands</p> <p>16 the law, and she understands that she has to let those</p> <p>17 comments stand because of her position in the city and</p> <p>18 that being her official page. It just seems Mr.</p> <p>19 Freed's a little confused about, you know, how he's</p> <p>20 supposed to handle things.</p> <p>21 Q. So I should look for on Mayor Repp's page you say</p> <p>22 the -- it was a Kevin Lindke post or was it -- or</p> <p>23 should I look for all three?</p> <p>24 A. You won't -- you won't find the other ones. If they</p> <p>25 were posted from the Kevin Lindke page, they should</p> |
| <p style="text-align: right;">Page 39</p> <p>1 protective order as to the written discovery. But in</p> <p>2 oral depositions, we're going to let these go forward</p> <p>3 and be a little more wide-ranging and we'll address it</p> <p>4 depending on how far it goes.</p> <p>5 THE WITNESS: Okay. I just wanted to</p> <p>6 clarify.</p> <p>7 BY MR. SHOUDY:</p> <p>8 Q. Just for the record, he denied the motion for a</p> <p>9 protective order as far as the written discovery</p> <p>10 request. So my --</p> <p>11 MR. ELLISON: I disagree with that -- with</p> <p>12 what you just said, Mr. Shoudy. He said that he denied</p> <p>13 it without -- he denied it for the fact that it wasn't</p> <p>14 presented to him. He didn't say it was just limited to</p> <p>15 written requests. So I would disagree with that, and I</p> <p>16 just want to make sure that that's not -- my -- my -- I</p> <p>17 don't want my silence to be my acquiescence to your</p> <p>18 assertion right there.</p> <p>19 BY MR. SHOUDY:</p> <p>20 Q. Do you need my question read back, Mr. Lindke?</p> <p>21 A. No. No, sir. No. I have been very critical of Mr.</p> <p>22 Freed at times on my group page, yes, sir.</p> <p>23 Q. Have you posted on other pages criticisms of Mr.</p> <p>24 Freed's response to the pandemic?</p> <p>25 A. I may have made comments on Mayor Repp's page when I</p> | <p style="text-align: right;">Page 41</p> <p>1 still be there. And I'll tell you a really easy way to</p> <p>2 find out. If you just go on Mayor Repp's official city</p> <p>3 page, go to the very top of the page in the search bar</p> <p>4 and type in my name, and anything I have posted to that</p> <p>5 page will come up.</p> <p>6 Q. All right. Well --</p> <p>7 A. I'll help you out a little bit there.</p> <p>8 Q. All right. So I go to Facebook and then I go to her</p> <p>9 page?</p> <p>10 A. Yes. Go to Mayor Repp's official page.</p> <p>11 Q. All right. I'm on something called Mayor Pauline Repp,</p> <p>12 Port Huron.</p> <p>13 A. Yes, sir. Now, at the top of that page there should be</p> <p>14 a search bar or a bar with a microphone.</p> <p>15 Q. Well, there's a little magnifying glass. Do I click on</p> <p>16 that?</p> <p>17 A. Yes. That's it. Now, if you go into that box and type</p> <p>18 in Kevin Lindke, anything I posted to Mayor Repp's page</p> <p>19 should come up as Kevin Lindke.</p> <p>20 Q. All right. Well, maybe I typed it wrong, because I</p> <p>21 didn't find any results.</p> <p>22 A. All right. So it may not be there, or she may have</p> <p>23 deleted them. Or like I said, it may have been</p> <p>24 comments from the Kevin James page or the Keith Wesley</p> <p>25 account. But because those were deleted by Facebook,</p> |

LINDKE, KEVIN

12/15/2020

Pages 42-45

| Page 42 | Page 44 |
|---|--|
| <p>1 it -- when Facebook deletes your account, it deletes</p> <p>2 everything that you have ever posted or reacted to or</p> <p>3 anything -- anything that has to do with that account</p> <p>4 completely disappears.</p> <p>5 Q. All right. Gotcha. So those would be gone?</p> <p>6 A. Yes, sir.</p> <p>7 Q. All right. So just looking at Pauline, for example, it</p> <p>8 looks like Pauline Repp has her own personal one and</p> <p>9 then a Mayor Pauline Repp one, right?</p> <p>10 A. I believe so.</p> <p>11 Q. Okay. And Mr. Freed didn't have two separate ones, a</p> <p>12 private one and then one that you say is his official</p> <p>13 one, right?</p> <p>14 A. Yes. My understanding is he only has an official</p> <p>15 public page that was created for his position as city</p> <p>16 manager, you know, as a paid employee, you know, public</p> <p>17 official with the City of Port Huron.</p> <p>18 Q. What makes you think that he created that, you know,</p> <p>19 when he was the city manager as opposed to something</p> <p>20 that he had prior to the time he was the city manager?</p> <p>21 A. I mean, I never said that he did it as the city</p> <p>22 manager. He may have created that page before becoming</p> <p>23 city manager. But once he became city manager, he</p> <p>24 started operating that page as an official city page.</p> <p>25 And if you look at when the pandemic started, Mr. Freed</p> | <p>1 to make it appear more like a personal page. But if</p> <p>2 that was the case, then Mr. Freed should have just made</p> <p>3 a regular profile like Mayor Repp did. Mayor Repp has</p> <p>4 a personal page. Mayor Repp has a Mayor Pauline Repp</p> <p>5 page. And if you look at Mr. Freed's page, it says</p> <p>6 this is a public page, and he's got pictures of</p> <p>7 downtown, and he's got -- a lot of his saved pictures</p> <p>8 are different city press releases and stuff of that</p> <p>9 nature. They are orders from the city and stuff like</p> <p>10 that.</p> <p>11 Q. So as I understand it, if I create a profile and I get</p> <p>12 a certain number of friends, am I forced by Facebook</p> <p>13 then to go from a profile to public page?</p> <p>14 A. Facebook doesn't force you to do anything. If you</p> <p>15 create a personal page that's just your personal page,</p> <p>16 you can have 5,000 friends on that page and that's it.</p> <p>17 You just can't have over 5,000 friends. They limit the</p> <p>18 friends to that.</p> <p>19 Q. So once you go over 5,000, do you then change into a</p> <p>20 public page?</p> <p>21 A. No. You have to create a second page. It doesn't just</p> <p>22 automatically change. A private profile -- I called it</p> <p>23 private, but it -- let's call it a primary or a</p> <p>24 personal page. Your personal page is your personal</p> <p>25 page. At no point does Facebook automatically take a</p> |
| Page 43 | Page 45 |
| <p>1 was -- he was posting stuff about the city, city</p> <p>2 business, he was asking for feedback, he was posting</p> <p>3 official city documents to that page, and he was using</p> <p>4 that page to communicate to city residents about city</p> <p>5 business.</p> <p>6 Q. Where did you find him asking for feedback on his</p> <p>7 Facebook page?</p> <p>8 A. I mean, all kinds of posts. There's a post he made</p> <p>9 about, you know, doing the park in front of McMorran</p> <p>10 and just different city projects and stuff. You know,</p> <p>11 he was releasing press state -- press releases to that</p> <p>12 page for the city residents concerning the pandemic and</p> <p>13 different things the city was undertaking in response</p> <p>14 to the pandemic. And, you know, as a layman or, you</p> <p>15 know, a resident of the city, or even a nonresident,</p> <p>16 that page for all intents and purposes seems to be a</p> <p>17 page run by the city manager to discuss city business</p> <p>18 and is an official city page ran by Mr. Freed.</p> <p>19 Q. I assume you saw in there that he posts a lot of, you</p> <p>20 know, personal family stuff on there as well?</p> <p>21 A. He puts some stuff on there, yes, he does. That</p> <p>22 personal stuff didn't -- he didn't put as much personal</p> <p>23 stuff prior to the pandemic and prior to this lawsuit</p> <p>24 being filed. Once this lawsuit was filed, it seemed</p> <p>25 that Mr. Freed tried to change the nature of that page</p> | <p>1 personal page and turn it into an official page. You</p> <p>2 have to do that. And it's not that Mr. Freed</p> <p>3 automatically had the page. It's that he was using</p> <p>4 that page that he created to discuss city business and</p> <p>5 was using that to let residents know what the city was</p> <p>6 doing.</p> <p>7 It's like, you know, President Trump. You</p> <p>8 know, he had his Twitter handle long before he became</p> <p>9 president. But once he became president and he started</p> <p>10 using that Twitter page or his Twitter handle and</p> <p>11 account to discuss, you know, national business or</p> <p>12 national happenings and stuff of that nature to do with</p> <p>13 the country, that then becomes his official presidency</p> <p>14 page and he's then bound by certain rules and</p> <p>15 regulations. And I don't think Mr. Freed understands</p> <p>16 that he's in that same category with the page that he</p> <p>17 created.</p> <p>18 Q. When you created a profile for your own personal</p> <p>19 Facebook account, you don't have to pay any money,</p> <p>20 correct?</p> <p>21 A. No. You don't have to pay money to create any account.</p> <p>22 Q. So like the group accounts you have, you don't have to</p> <p>23 pay any money to create that one, correct?</p> <p>24 A. No, sir.</p> <p>25 Q. And then if you create a page, or a public page if you</p> |

LINDKE, KEVIN

12/15/2020

Pages 46-49

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|---|---|
| <p style="text-align: right;">Page 46</p> <p>1 will, that one you don't have to pay any money for</p> <p>2 either?</p> <p>3 A. No, sir, not to my understanding. My Through My Eyes</p> <p>4 page I've never had to pay, my Attorney Review Board</p> <p>5 page I've never had to pay, yeah.</p> <p>6 Q. So do you have any evidence that any city dollars were</p> <p>7 used to create James R. Freed's page?</p> <p>8 A. Not that I know. But I don't think that's what the --</p> <p>9 I don't think that's the bar or that's the threshold to</p> <p>10 do it. City dollars being paid for a page is</p> <p>11 irrelevant. President Trump doesn't have to pay for</p> <p>12 his Twitter handle. But the minute he became</p> <p>13 president, that's an official page of his. And so I</p> <p>14 don't think, you know, paying anything has anything to</p> <p>15 do with any of this.</p> <p>16 Q. So do you have any evidence that any city employees,</p> <p>17 you know, ran or managed his Facebook page or put</p> <p>18 any -- you know, basically had any personal involvement</p> <p>19 in running his page?</p> <p>20 A. I mean, he's a city employee.</p> <p>21 Q. Anyone other than Mr. Freed personally.</p> <p>22 A. I think that would be a question you'd have to ask Mr.</p> <p>23 Freed.</p> <p>24 Q. So now there are some group pages that are called Port</p> <p>25 Huron, Michigan on Facebook, is that correct?</p> | <p style="text-align: right;">Page 48</p> <p>1 Through My Eyes page, but then either I or other people</p> <p>2 may have shared them to other Facebook pages.</p> <p>3 Q. There's a Facebook page that is -- like has a lot of</p> <p>4 numbers, like a Port Huron one. I know it's an</p> <p>5 unofficial page of some sort. There's some guy who</p> <p>6 runs it apparently. Did you make any posts on that</p> <p>7 Facebook page about Mr. Freed's response to the</p> <p>8 pandemic?</p> <p>9 A. Not on those pages I don't think. I'm not a member of</p> <p>10 any of those groups because of my position in the</p> <p>11 community and, you know, the situation I have going</p> <p>12 with the courts and stuff of that nature. Those other</p> <p>13 pages, I'm not a member of any of those groups or on</p> <p>14 those pages. I may have been at one time here and</p> <p>15 there, but they are pretty good about deleting</p> <p>16 everything and keeping all that stuff off of there.</p> <p>17 Q. Okay. Yeah. There's a public group I see right now</p> <p>18 that's Port Huron, Michigan. It has 55.5 thousand</p> <p>19 members. So just so I understand, to your memory you</p> <p>20 haven't posted anything about Mr. Freed on that page?</p> <p>21 A. It may have got shared there. I don't know. I'm</p> <p>22 blocked from that group. The guy that runs it -- yeah.</p> <p>23 There's multiple admins. I'm not a member of that</p> <p>24 group. And I know from other people telling me that</p> <p>25 they are very good about keeping anything about me or</p> |
| <p style="text-align: right;">Page 47</p> <p>1 A. Yes. I believe so. I believe there's a couple of</p> <p>2 different group pages, yeah, that are -- you know,</p> <p>3 there's a St. Clair County page. I mean, there's</p> <p>4 countless Port Huron group pages.</p> <p>5 Q. And to your knowledge, those are not run by the city,</p> <p>6 correct?</p> <p>7 A. I don't know that.</p> <p>8 Q. Okay. Are there any Facebook pages or Facebook groups</p> <p>9 to your knowledge that are run by the City of Port</p> <p>10 Huron?</p> <p>11 A. I'm not sure of that either. I mean, I would -- I</p> <p>12 would -- I mean, like Mayor Repp's mayor page. I mean,</p> <p>13 that's a city employee running a city run page. I</p> <p>14 mean, she's the mayor, just like Mr. Freed's page, you</p> <p>15 know, as the city manager. So, I mean, I guess I'm a</p> <p>16 little confused by -- you know, it's kind of a broad</p> <p>17 question.</p> <p>18 Q. Earlier you indicated you've been very critical of Mr.</p> <p>19 Freed. Are there locations on Facebook besides your</p> <p>20 own group page where you've made posts critical of Mr.</p> <p>21 Freed?</p> <p>22 A. I mean, it's quite possible. I post a lot. So, I</p> <p>23 mean, I could. I think most of mine are restricted to</p> <p>24 -- well, no, I've shared a lot of them locally, stuff</p> <p>25 of that nature. I posted them to the group page, the</p> | <p style="text-align: right;">Page 49</p> <p>1 my criticism of the city or the courts or of your firm</p> <p>2 off of that page.</p> <p>3 Q. Prior to March of 2020 when you first posted about Mr.</p> <p>4 Freed's response to the pandemic, Mr. Freed or Mayor</p> <p>5 Repp's response to the pandemic, had you made any posts</p> <p>6 critical of Mr. Freed in any capacity?</p> <p>7 A. Yeah. I've made multiple posts about an alleged affair</p> <p>8 that Mr. Freed was engaged in with another city</p> <p>9 employee. I'm sure you're aware of the Joel Wood and</p> <p>10 the Josh Bauman murder case. Mr. Freed's name is in</p> <p>11 that police report numerous times as possibly dating</p> <p>12 one of the suspects -- or one of the victims. And I</p> <p>13 was also a cell mate with the suspect in that case, and</p> <p>14 he gave me direct knowledge of Mr. Freed's involvement</p> <p>15 with his estranged wife. And like I said, Mr. Freed's</p> <p>16 name came up in that police report on numerous</p> <p>17 occasions about his involvement or alleged involvement</p> <p>18 with the victim in that case.</p> <p>19 Q. When were you a cell mate with Mr. Bauman?</p> <p>20 A. I'm trying to think. Tomlinson's locked me up a bunch.</p> <p>21 This was going to be, oh, maybe 2017 sometime, 2018</p> <p>22 possibly. I'm not sure exactly when me and Mr. Bauman</p> <p>23 were cell mates.</p> <p>24 Q. Okay. And then whatever information you obtained from</p> <p>25 Mr. Bauman regarding Mr. Freed you had made some public</p> |

LINDKE, KEVIN

12/15/2020

Pages 50-53

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| <p style="text-align: right;">Page 50</p> <p>1 posts about, you know, basically accusing him of being</p> <p>2 involved in some type of relationship with one of the</p> <p>3 victims?</p> <p>4 A. Yeah. The victim and Mr. Bauman both stated in the</p> <p>5 police report that -- Mr. Bauman stated that he</p> <p>6 believed that Mr. Freed was the victim's boyfriend.</p> <p>7 The victim herself alluded to Mr. Freed asking her out</p> <p>8 for drinks and to go out with her and stuff of that</p> <p>9 nature. And that's all memorialized in the police</p> <p>10 report, which I read personally.</p> <p>11 Q. So in 2020, during the calendar year 2020, were you in</p> <p>12 the St. Clair County Jail or any other jail at any</p> <p>13 point in time during 2020?</p> <p>14 A. I don't believe I've done any time this year. Not yet</p> <p>15 anyway.</p> <p>16 Q. When you're blocked on Facebook, how do you find out</p> <p>17 you're blocked?</p> <p>18 A. Well, like, so say me and you were Facebook friends,</p> <p>19 Mr. Shoudy. Or not even Facebook friends. But say we</p> <p>20 were and say I posted something that you didn't like</p> <p>21 and then you blocked me. So then I would go to search</p> <p>22 for your page, and it would just come up unavailable.</p> <p>23 It would just be basically a blank screen. What Mr.</p> <p>24 Freed did, and this is how I knew that he blocked me</p> <p>25 from his page, is when you go on those posts it will</p> | <p style="text-align: right;">Page 52</p> <p>1 Facebook page or blocked that account, how do you find</p> <p>2 out as Kevin Lindke that you've been blocked?</p> <p>3 A. I'm not 100 percent sure he can from a page -- from a</p> <p>4 group page like that or, you know, a page of that</p> <p>5 nature. I don't know if he can completely block me.</p> <p>6 I'm not 100 percent sure. But I know that he can</p> <p>7 delete my account and he can make it where I can't</p> <p>8 comment. That option is taken away. And you can see</p> <p>9 it, because if you look back at that comment with -- or</p> <p>10 the post with Mayor Repp, underneath the picture it</p> <p>11 will say like, comment, share. And what Mr. Freed did</p> <p>12 is he pulled that comment option out of those three</p> <p>13 choices.</p> <p>14 Q. Okay. So, you know, when you log in under Kevin</p> <p>15 Lindke, you could still see his Facebook page and the</p> <p>16 comments, but you can't comment yourself?</p> <p>17 A. Yeah. Then the comment gets deleted, and then you -- I</p> <p>18 can't hit the comment button to make any comments. Or</p> <p>19 what Mr. Freed will do, and he's done this since this</p> <p>20 lawsuit started, is he just deactivates that whole</p> <p>21 page, and then he turns it back on, and then he turns</p> <p>22 it off, and then he turns it on, and then he turns it</p> <p>23 off. I believe it's currently not active and not</p> <p>24 searchable. I may be wrong. I haven't looked in a</p> <p>25 while. But last time I -- you know, last I was aware</p> |
| <p style="text-align: right;">Page 51</p> <p>1 say -- you'll have the comment, share or like. After I</p> <p>2 made my comments and he deleted them, the comment --</p> <p>3 the ability to comment, that button to press was taken</p> <p>4 out of that. So I could only share his posts or I</p> <p>5 could like his posts, but I couldn't comment on his</p> <p>6 posts.</p> <p>7 Q. So I'm a little confused by what you said there. So if</p> <p>8 he's blocked you, I think you said something comes back</p> <p>9 as unavailable. What comes back as unavailable? Like</p> <p>10 you search for his page and you can't find it, or you</p> <p>11 can go on his page and you can't find your comments? I</p> <p>12 mean, I guess I'm a little confused on how you find out</p> <p>13 you're blocked. What would be the effect of being</p> <p>14 blocked --</p> <p>15 A. He's just --</p> <p>16 MR. ELLISON: Kevin, I want to make sure you</p> <p>17 guys are using the right phrases. I'm going to direct</p> <p>18 you to make sure you use the right word, because you</p> <p>19 just combined profile and page together there when you</p> <p>20 made your response just now. Okay?</p> <p>21 THE WITNESS: Yeah. So are we -- are we just</p> <p>22 talking about Mr. Freed's -- the page in question?</p> <p>23 BY MR. SHOUDY:</p> <p>24 Q. Well, let's start there. So how do you find out --</p> <p>25 like if Mr. Freed has blocked let's say Kevin Lindke's</p> | <p style="text-align: right;">Page 53</p> <p>1 of is that he deactivated that entire page.</p> <p>2 Q. So when you went on his Facebook page and your comment</p> <p>3 is no longer there, could you still hit the like</p> <p>4 button?</p> <p>5 A. I don't believe so. I'm not too sure.</p> <p>6 Q. Could you share a post if you want?</p> <p>7 A. Could what?</p> <p>8 Q. Share.</p> <p>9 A. Possibly. I'm not too sure.</p> <p>10 COURT REPORTER: Mr. Shoudy, you're garbled</p> <p>11 now. Something's -- there's like a -- do you guys hear</p> <p>12 it?</p> <p>13 MR. SHOUDY: I hear something, yes.</p> <p>14 MR. ELLISON: I don't know if that's coming</p> <p>15 through Kevin.</p> <p>16 MR. SHOUDY: Do you have a radio on maybe?</p> <p>17 COURT REPORTER: It's only when Mr. Shoudy is</p> <p>18 speaking.</p> <p>19 MR. SHOUDY: I hear it when you speak.</p> <p>20 Actually, I hear it when anybody speaks.</p> <p>21 COURT REPORTER: Oh, you do? Okay.</p> <p>22 THE WITNESS: I hear everybody -- I can hear</p> <p>23 everybody fine. So there's nothing on my end.</p> <p>24 COURT REPORTER: All right. Just go slow. I</p> <p>25 can't understand you very well. I can hear you fine,</p> |

LINDKE, KEVIN

12/15/2020

Pages 54-57

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| <p style="text-align: right;">Page 54</p> <p>1 Mr. Lindke. You're coming in good from your car.</p> <p>2 THE WITNESS: I found a good spot.</p> <p>3 MR. SHOUDY: What I'm hearing is like a</p> <p>4 distorted echo that happens.</p> <p>5 COURT REPORTER: I hear that. It's a little</p> <p>6 better now. All right. Let's try it again.</p> <p>7 MR. SHOUDY: All right. Well, I'm almost</p> <p>8 done anyway, so let me just look.</p> <p>9 BY MR. SHOUDY:</p> <p>10 Q. So on your profile, on your regular Kevin Lindke</p> <p>11 profile, can you do the same, block people?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And I assume you've done that from time to time?</p> <p>14 A. Block people? Yeah. There's a few people I've had to</p> <p>15 block over the years.</p> <p>16 Q. Okay. And then do you also have the ability to delete</p> <p>17 comments on your profile?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And then on your group page, do you have the ability to</p> <p>20 delete comments there as well?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And do you have the ability to -- like on a group page,</p> <p>23 do you have the ability to kick somebody out of the</p> <p>24 group?</p> <p>25 A. Yes, sir.</p> | <p style="text-align: right;">Page 56</p> <p>1 kind of let slide. Because, you know, I believe in,</p> <p>2 you know, just letting people, you know, put their</p> <p>3 opinions out there and stuff of that nature. So as</p> <p>4 long as it's not threatening or, you know, just</p> <p>5 completely out of bounds, I let it ride.</p> <p>6 MR. SHOUDY: All right. That's all the</p> <p>7 questions I have at this time. Phil, I reserve the</p> <p>8 right to ask some follow-up questions after he produces</p> <p>9 the screen shots Kevin thinks he has.</p> <p>10 MR. ELLISON: I have no objection to that, to</p> <p>11 reserve the follow-up.</p> <p>12 EXAMINATION</p> <p>13 BY MR. ELLISON:</p> <p>14 Q. Kevin, I've got a couple of quick questions for you</p> <p>15 just to follow-up with this, and then we'll reserve the</p> <p>16 balance of our questions for the motion or trial. But</p> <p>17 I want to clear up a couple of points.</p> <p>18 At one point you mentioned that you were cell</p> <p>19 mates with Mr. Bauman.</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. What were you in jail for?</p> <p>22 A. That time, contempt of court.</p> <p>23 Q. Okay. And the contempt of court was based on what?</p> <p>24 A. I believe that time it was Judge Tomlinson threw me in</p> <p>25 jail for ten days because me and some nonparty</p> |
| <p style="text-align: right;">Page 55</p> <p>1 Q. Do you have the ability to ban somebody from the</p> <p>2 outside from posting?</p> <p>3 A. Yes, sir.</p> <p>4 Q. All right. And I assume all of those functions you've</p> <p>5 exercised on your profile page as well as your group</p> <p>6 page?</p> <p>7 A. Yeah. But my -- my group page is different than Mr.</p> <p>8 Freed's page. I have a group page. He has</p> <p>9 basically -- it's -- it would be -- for lack of a</p> <p>10 better term, it would be a business page, I guess.</p> <p>11 They're just kind of structured differently.</p> <p>12 Q. When you say a business page, are you referring to his</p> <p>13 page or your --</p> <p>14 A. His page.</p> <p>15 Q. Gotcha. Okay. So your group page, like if somebody</p> <p>16 posts something that's critical of you on there, you</p> <p>17 can say you're not posting it on my page, I'm getting</p> <p>18 rid of it?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And you've done that, correct?</p> <p>21 A. Yeah. It's very rare that I do that, but yeah.</p> <p>22 Q. Okay.</p> <p>23 A. It's more -- the only stuff I really ever take off my</p> <p>24 page is if it's, you know, vulgar or it's, you know,</p> <p>25 threatening, stuff of that nature. Everything else I</p> | <p style="text-align: right;">Page 57</p> <p>1 attorney -- well, actually though, Ambereen went into</p> <p>2 court and caused a huge scene, and I got punished for</p> <p>3 it. Ambereen Ahmed is my daughter's guardian ad litem</p> <p>4 who was appointed by Judge Tomlinson.</p> <p>5 Q. Would it be fair to say that every time that you've</p> <p>6 been sentenced to jail by Judge Tomlinson it's been</p> <p>7 related to either speech or online posts?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Okay. You haven't threatened to kill anyone or cause</p> <p>10 any violence or anything of that nature, correct?</p> <p>11 A. No, sir.</p> <p>12 Q. And you have an ongoing issue with child custody with</p> <p>13 Judge Tomlinson as the judge on that particular case,</p> <p>14 correct?</p> <p>15 A. Yes, sir.</p> <p>16 Q. The comments that you've made on Mr. Freed's Facebook</p> <p>17 page that we've been talking about here today, were</p> <p>18 those comments critical of Mr. Freed in his personal</p> <p>19 capacity?</p> <p>20 A. No. They were all with -- they were all about his</p> <p>21 capacity as the city manager. And I believe that all</p> <p>22 of them were just responses to posts he made concerning</p> <p>23 the pandemic.</p> <p>24 Q. And the comments that you made on Mr. Freed's Facebook</p> <p>25 page, the city manager page, were they -- would you</p> |

LINDKE, KEVIN

12/15/2020

Pages 58–61

| Page 58 | Page 60 |
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| <p>1 characterize those as being critical feedback of</p> <p>2 Mr. Freed and Mayor Repp's actions involving COVID?</p> <p>3 A. Correct.</p> <p>4 MR. SHOUDY: I just want to put an objection</p> <p>5 on the record there as to the form of the question and</p> <p>6 foundation.</p> <p>7 BY MR. ELLISON:</p> <p>8 Q. Okay. Go ahead, Kevin.</p> <p>9 A. Yeah. My comments on those pages were all responses</p> <p>10 about their response to the pandemic.</p> <p>11 Q. In your estimation, were any of those posts vulgar?</p> <p>12 A. No, sir.</p> <p>13 Q. Were they threatening?</p> <p>14 A. No, sir.</p> <p>15 Q. Did they otherwise ask someone to commit or otherwise</p> <p>16 incite violence against Mr. Freed?</p> <p>17 A. No, sir.</p> <p>18 Q. All right. What did you hope to accomplish by making</p> <p>19 the statements you did in the Facebook comments of Mr.</p> <p>20 Freed's Facebook page?</p> <p>21 A. Well, it was widely known in the community, and Mr.</p> <p>22 Shoudy was aware of it, and a lot of other people, and</p> <p>23 Mr. Freed himself and Mayor Repp, that I was running</p> <p>24 for mayor, you know, last year. And, you know, part of</p> <p>25 my campaigning was to kind of just highlight, you know,</p> | <p>1 fact, I have no problem with that. I know we're having</p> <p>2 a little bit of a technical issue here today too I</p> <p>3 hear. So go ahead.</p> <p>4 MR. SHOUDY: Yeah. My objection was that</p> <p>5 your question was leading. So I said the word leading</p> <p>6 so I could get it on the record.</p> <p>7 BY MR. ELLISON:</p> <p>8 Q. Okay. Did Mr. Freed to your knowledge turn off</p> <p>9 comments of other posters on his Facebook page?</p> <p>10 A. I believe so. That story --</p> <p>11 Q. Let me stop you right there, because I want to ask you</p> <p>12 a quick question. How did you find out that there were</p> <p>13 others that had their comments deleted off the Facebook</p> <p>14 page?</p> <p>15 A. They were publically posting about it on my group page</p> <p>16 Through My Eyes. And some people said that it's been</p> <p>17 an ongoing issue that they've personally had with Mr.</p> <p>18 Freed long before me and Mr. Freed started engaging</p> <p>19 with one another. And it wasn't just about the</p> <p>20 pandemic. I know people have made comments just about</p> <p>21 different city issues and stuff of that nature. They</p> <p>22 would comment on Mr. Freed's official page. And if Mr.</p> <p>23 Freed didn't like what was being said, he would delete</p> <p>24 their comments and restrict their ability to comment on</p> <p>25 his page.</p> |
| Page 59 | Page 61 |
| <p>1 the city leadership's failure on, you know, an</p> <p>2 unprecedented situation concerning COVID. And, you</p> <p>3 know, I just -- as -- I was a disgruntled city resident</p> <p>4 who didn't think that they were doing the things they</p> <p>5 should to, you know, deal with the city and the stuff</p> <p>6 of that nature. And, you know, as my -- throwing my</p> <p>7 hat in the political ring, you know, I was just</p> <p>8 campaigning a little bit I guess you could say and just</p> <p>9 kind of let my feelings be known about what the current</p> <p>10 mayor and the current city manager were doing or not</p> <p>11 doing for city residents.</p> <p>12 Q. When Mr. Freed turned off the ability to comment, what</p> <p>13 did you understand -- or let me ask it this way. When</p> <p>14 the comments were turned off, you were no longer</p> <p>15 permitted to speak or communicate with Mr. Freed via</p> <p>16 his Facebook page, correct?</p> <p>17 A. Correct.</p> <p>18 Q. That cut off an avenue of communication to a city</p> <p>19 official, correct?</p> <p>20 A. Correct.</p> <p>21 MR. SHOUDY: Leading.</p> <p>22 MR. ELLISON: I'm sorry, Todd?</p> <p>23 MR. SHOUDY: I'm sorry. I'm trying to get my</p> <p>24 objection in before he answers.</p> <p>25 MR. ELLISON: That's fine. If it's after the</p> | <p>1 Q. And this was told to you by the folks that had their</p> <p>2 comments deleted, yes or no?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay. To your knowledge, has anyone told you that Mr.</p> <p>5 Freed also blocked them from being able to speak</p> <p>6 through Mr. Freed's Facebook page?</p> <p>7 A. Yes. They've all said that basically with Mr. Freed</p> <p>8 the issue I'm having with Mr. Freed as far as</p> <p>9 commenting on the page and not being able to comment,</p> <p>10 they are all experiencing the same -- the same issue.</p> <p>11 And basically Mr. Freed behaved in the same way with</p> <p>12 them as he has with me.</p> <p>13 Q. Would those be the individuals that Mr. Shoudy put up</p> <p>14 on the screen earlier that have been identified in the</p> <p>15 initial disclosure by my office?</p> <p>16 A. Yes, sir. And I believe there are some other people</p> <p>17 too that had that issue, but they didn't want to be</p> <p>18 wrapped up in any type of litigation or be involved in</p> <p>19 any litigation for fear of -- for fear of what -- you</p> <p>20 know, their perception is that certain city officials</p> <p>21 or certain county officials would, you know, negatively</p> <p>22 try to affect their lives if they attempted to, you</p> <p>23 know, get involved in any of this.</p> <p>24 Q. To your knowledge, were any of the posts that were</p> <p>25 deleted by these third parties, were any of them</p> |

LINDKE, KEVIN

12/15/2020

Pages 62-65

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|--|---|
| <p style="text-align: right;">Page 62</p> <p>1 vulgar, threatening or inciting violence in any way?</p> <p>2 A. Not that I know of, no.</p> <p>3 Q. Do you know about what standards or qualifications Mr.</p> <p>4 Freed uses before deciding whether to terminate a</p> <p>5 person's ability to comment on his Facebook page?</p> <p>6 MR. SHOUDY: I'm going to object to the</p> <p>7 foundation of that question.</p> <p>8 MR. ELLISON: I'm just asking if he knows --</p> <p>9 if he knows of any standards. So the answer would be</p> <p>10 yes or no, I think.</p> <p>11 MR. SHOUDY: You're asking him to speculate</p> <p>12 as to what standards --</p> <p>13 MR. ELLISON: I'm not asking him to</p> <p>14 speculate. I'm asking him does he know of the</p> <p>15 standards that Mr. Freed uses. And then my next</p> <p>16 question if he does is to explain those.</p> <p>17 BY MR. ELLISON:</p> <p>18 Q. So Mr. Lindke, do you know of the standards that Mr.</p> <p>19 Freed uses to decide whether to terminate someone's</p> <p>20 ability to comment on the Facebook page?</p> <p>21 A. I believe that --</p> <p>22 MR. SHOUDY: Objection.</p> <p>23 THE WITNESS: Oh, go ahead.</p> <p>24 MR. ELLISON: I've got your objection. Let</p> <p>25 me do it this way. Mr. Shoudy, I recognize your</p> | <p style="text-align: right;">Page 64</p> <p>1 THE WITNESS: I believe anything that's</p> <p>2 critical or negative of him or anyone he's connected to</p> <p>3 gets deleted.</p> <p>4 BY MR. ELLISON:</p> <p>5 Q. Now, when you made that comment about you're the ones</p> <p>6 being deleted, that's based on your own observation and</p> <p>7 understanding, correct?</p> <p>8 MR. SHOUDY: Same objection.</p> <p>9 THE WITNESS: Yes, sir. It's -- yeah. It's</p> <p>10 just -- that's my opinion.</p> <p>11 BY MR. ELLISON:</p> <p>12 Q. Okay. So the point though is are you aware of any</p> <p>13 written policy or directive or announcement that Mr.</p> <p>14 Freed has made about which standard he uses whether to</p> <p>15 delete comments?</p> <p>16 A. No, sir.</p> <p>17 Q. Before Mr. Freed suspended your ability or terminated</p> <p>18 your ability to post comments on Facebook, did he give</p> <p>19 you notice and the opportunity to object to that cause</p> <p>20 of action and that process going forward?</p> <p>21 A. No, sir.</p> <p>22 Q. After he did so, did he give you any notice or</p> <p>23 opportunity after the fact --</p> <p>24 A. No, sir.</p> <p>25 Q. -- to challenge his decision to remove you from being</p> |
| <p style="text-align: right;">Page 63</p> <p>1 objection.</p> <p>2 BY MR. ELLISON:</p> <p>3 Q. Mr. Lindke, go ahead and answer.</p> <p>4 A. I believe that Mr. Freed keeps anything positive said</p> <p>5 about him and anything that could be construed as even</p> <p>6 slightly negative about him or his leadership or his</p> <p>7 position as city manager he deletes them, or any</p> <p>8 negative comments about, you know, Mr. Shoudy's firm or</p> <p>9 Mayor Repp or any of the judges. Basically it seemed</p> <p>10 that Mr. Freed protects the good old boys network that</p> <p>11 is operating within the city and the county. But when</p> <p>12 you tell him what a great guy he is, he leaves all that</p> <p>13 up.</p> <p>14 Q. To your knowledge, has Mr. Freed ever publically</p> <p>15 announced what those standards are of how he determines</p> <p>16 what's a positive comment versus a negative comment?</p> <p>17 A. Not to my knowledge.</p> <p>18 Q. Is there any publication or policy or directive that</p> <p>19 you know of that puts these standards into written form</p> <p>20 to your knowledge?</p> <p>21 A. Not to my knowledge.</p> <p>22 Q. All right. Same question about whether to delete</p> <p>23 comments. Do you know the policy or standard by which</p> <p>24 he determines whose comments to delete?</p> <p>25 MR. SHOUDY: Objection.</p> | <p style="text-align: right;">Page 65</p> <p>1 able to comment?</p> <p>2 A. No, sir.</p> <p>3 Q. All right. Same question about deleting comments. Did</p> <p>4 he give you notice beforehand that he was going to</p> <p>5 delete comments and gave you the opportunity to object</p> <p>6 to that action?</p> <p>7 A. No, sir.</p> <p>8 Q. And what about after he deleted comments, did he ever</p> <p>9 give you the opportunity to challenge or object to the</p> <p>10 deletions so they could be restored?</p> <p>11 A. No, sir.</p> <p>12 Q. Okay. To your knowledge, has Mr. Freed ever posted</p> <p>13 anything on Facebook indicating that this was in fact a</p> <p>14 personal page as opposed to a city manager page?</p> <p>15 A. Not to my understanding, no.</p> <p>16 Q. There was no disclaimer or qualification on the page</p> <p>17 that you're aware of?</p> <p>18 A. Not that I -- no, not that I believe so. Or I do not</p> <p>19 believe so.</p> <p>20 Q. Since this lawsuit's been filed, has anything been</p> <p>21 presented to you that would show that there was a</p> <p>22 disclaimer or a qualification that this was a private</p> <p>23 account?</p> <p>24 A. No, sir.</p> <p>25 MR. ELLISON: I'm going to reserve the</p> |

LINDKE, KEVIN

12/15/2020

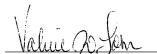
Pages 66–69

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| <p style="text-align: right;">Page 66</p> <p>1 balance of my questions for further affidavit, motion</p> <p>2 practice and trial. I have no further questions.</p> <p>3 Thank you.</p> <p>4 MR. SHOUDY: Mr. Lindke, I have a few</p> <p>5 follow-up questions.</p> <p>6 REEXAMINATION</p> <p>7 BY MR. SHOUDY:</p> <p>8 Q. So when you use the phrase official Facebook page of</p> <p>9 James Freed, you're talking about the Facebook page</p> <p>10 that's entitled James R. Freed? I mean, there's only</p> <p>11 one page we're talking about, correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And it's the one that's entitled James R. Freed,</p> <p>14 correct?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Now, you said something that caught my attention. You</p> <p>17 said that Mr. Freed deletes comments that are critical</p> <p>18 of I think you said the good old boys and you</p> <p>19 referenced my firm. What posts were made about my firm</p> <p>20 on the Facebook page that were deleted?</p> <p>21 A. I can't think of anything specifically.</p> <p>22 Q. All right. Are you sure there were any such posts that</p> <p>23 were about my firm on the Facebook page that were</p> <p>24 deleted?</p> <p>25 A. I mean, there may have been. Like I said, I just -- I</p> | <p style="text-align: right;">Page 68</p> <p>1 A. Yes, sir. Yeah. And -- well, yeah, and from the Times</p> <p>2 Herald. They tried to look into it, but your -- your</p> <p>3 office I believe may have informed Mr. Freed to not</p> <p>4 speak about it, and also Mr. Fernandez. It's -- it's</p> <p>5 really weird that two city managers got shit-face drunk</p> <p>6 and then one hits the other one and breaks his leg and</p> <p>7 nobody's talking about it, publically anyway.</p> <p>8 Q. Or maybe you don't have your facts right. But</p> <p>9 anyway --</p> <p>10 A. I mean, you could fill me in, Mr. Shoudy. You seem to</p> <p>11 know. You could fill me in and, you know, I will make</p> <p>12 the corrections on what really happened if you want to</p> <p>13 give me some background.</p> <p>14 Q. Well, there's a reason hearsay is inadmissible in</p> <p>15 court, sir.</p> <p>16 So the posts that you're making that are at</p> <p>17 issue in this case --</p> <p>18 A. Did Mr. Fernandez run over the little girl, or did I</p> <p>19 get that one wrong, too?</p> <p>20 Q. Mr. Lindke, going to my question, my question is am I</p> <p>21 correct that your Facebook posts about Mr. Freed are</p> <p>22 only disconnecting from the issues that you have</p> <p>23 regarding your daughter? Am I correct on that?</p> <p>24 A. Where at? I don't know -- I'm not really sure the</p> <p>25 relevance of that question and what it has to do with</p> |
| <p style="text-align: right;">Page 67</p> <p>1 don't recollect.</p> <p>2 Q. All right. And then I know you mentioned the mayor.</p> <p>3 But anyone other than the mayor that you recollect him</p> <p>4 deleting a post that was critical of someone other than</p> <p>5 Mr. Freed or the mayor?</p> <p>6 A. Maybe about Randy Fernandez, the Marysville city</p> <p>7 manager. But I don't think I posted anything. I'm</p> <p>8 pretty sure that, you know, the scope of my posts on</p> <p>9 Mr. Freed's page had to do with his pandemic response.</p> <p>10 And that's basically it.</p> <p>11 Q. Okay. So the deletions of posts that you're aware of</p> <p>12 only pertain to the pandemic response?</p> <p>13 A. Yeah, possibly.</p> <p>14 Q. And you mentioned Randy Fernandez. Now, as I</p> <p>15 understand it, you've been critical of Mr. Freed, you</p> <p>16 know, some incident that occurred between him and Mr.</p> <p>17 Fernandez?</p> <p>18 A. That's my understanding. It's my understanding that</p> <p>19 they were highly intoxicated at a golf outing, and Mr.</p> <p>20 Freed ran into Mr. Fernandez with a golf cart and</p> <p>21 severely injured him.</p> <p>22 Q. All right. Where did you get that from?</p> <p>23 A. It's, you know, widespread public knowledge around, you</p> <p>24 know, the city and the county.</p> <p>25 Q. So just word of mouth is what you're saying?</p> | <p style="text-align: right;">Page 69</p> <p>1 anything I posted on -- I don't post anything about Mr.</p> <p>2 Freed about my daughter on his page.</p> <p>3 Q. So my question is the criticism that you had that you</p> <p>4 say you were blocked from Mr. Freed's Facebook page has</p> <p>5 nothing to do with the circumstances involving your</p> <p>6 daughter, am I correct on that?</p> <p>7 A. I believe so, yeah. I don't think I said anything</p> <p>8 about my custody situation on his page.</p> <p>9 MR. SHOUDY: Okay. Thank you, sir. That's</p> <p>10 all I have.</p> <p>11 (The deposition was concluded at 12:01 p.m.</p> <p>12 Signature of the witness was not requested by</p> <p>13 counsel for the respective parties hereto.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |

LINDKE, KEVIN
12/15/2020

Pages 70

Page 70

1 CERTIFICATE OF NOTARY
2 STATE OF MICHIGAN)
3) SS
4 COUNTY OF ST. CLAIR)
5
6 I, Valerie Jo Lohr, C.S.R., certify that this
7 deposition was taken before me on the date hereinbefore
8 set forth; that the foregoing questions and answers
9 were recorded by me stenographically and reduced to
10 computer transcription; that this is a true, full and
11 correct transcript of my stenographic notes so taken;
12 and that I am not related to, nor of counsel to, either
13 party nor interested in the event of this cause.
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20 
21
22 VALERIE JO LOHR, CSR-6212
23 Notary Public,
24 St. Clair County, Michigan
25 My commission expires: May 23, 2027